

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

PETER LORA, Victoria Bloom, et al

V.

DEAN BOLAND

1:07 CV 2787

JUDGE DAN AARON POLSTER

MOTION TO STRIKE SUPPLEMENTAL
AUTHORITY FILED BY PLAINTIFF

Defendant respectfully requests this court strike from the record the plaintiff's so-called supplemental authority (Dkt. #80). As Exhibit 1 to this motion demonstrates, plaintiffs have either altered or provided a draft version of language appearing on a website that no longer exists.

The bottom line plaintiffs supplemental authority seeks to distract from is this:

1. It is stipulated the minor plaintiffs have no current damages.
2. No authority claims Congress intended the federal civil remedies provision to compensate **non-victims** (i.e. the remaining two plaintiffs) for having law enforcement *describe the contents of an alleged child pornographic image to them*. Congress certainly did not hold hearings, wrangle over statutory language and pass a statute designed to impose liability upon a person for someone else's description of an image that person created for use as a court exhibit under valid state law.

3. Even if this court divines Congress' intent to be so, the Defendant did not provide any such description to the adult plaintiffs.

While there certainly can be valid applications of this statute to criminal conduct for which there is no exception, no valid application includes imposing liability for *not causing any harm* to a minor as is stipulated in this case. No valid application of the statute includes imposing liability for harm that *may occur or may not occur* in the future to the minor plaintiffs. And, finally, no valid application of the statute includes imposing liability on Defendant for harm that is caused by the adult plaintiffs intentionally disclosing to the minor plaintiffs at some future time the existence of any image.

As of the date of this writing, the minor plaintiffs have no damages. The adult plaintiffs have acknowledged the minor plaintiffs will never have damages unless someone discloses to them the existence of an image allegedly including a portion of their image. The adult plaintiffs have testified under oath they do not intend to disclose this fact to either of the minor plaintiffs. The adult plaintiffs' damages - for having an image *described to them* - are not quantifiable and not compensable under the statute.

For the reasons set forth above, Defendant respectfully requests this court strike plaintiffs misleading supplemental authority from the court record.

/s/ Dean Boland

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served
on all parties by operation of the court's electronic filing system.

/s/ Dean Boland

Dean Boland 0065693